

# HOUSE BILL REPORT

## HB 1975

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to the excise taxation of trail maintenance and construction services.

**Brief Description:** Providing excise tax relief for trail maintenance and construction services performed by nonprofit organizations.

**Sponsors:** Representatives Springer, Tom, B. Sullivan, O'Brien, Cody, Kagi, Blake, Orcutt, McIntire, Nixon, Hinkle, Condotta, Haigh and Kenney.

**Brief History:**

**Committee Activity:**

Finance: 2/22/05, 3/7/05 [DPS].

**Brief Summary of Substitute Bill**

- Exempts trail maintenance by nonprofit organizations from the business and occupational tax, retail sales, and use taxes.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Conway, Ericksen, Hasegawa and Santos.

**Staff:** Mark Matteson (786-7145).

**Background:**

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. Since the B&O tax is not based on profit, nonprofit organizations are not automatically exempt from the B&O tax. An exemption from federal income tax does not automatically provide an exemption from state and local taxes. Specific B&O exemptions exist for several types of nonprofit organizations. The eligibility conditions vary for each exemption.

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and

counties may levy a local tax at a rate up to a maximum of 3.1 percent. Currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller. The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue. All items or services sold or acquired at retail are subject to retail sales and use taxes unless specifically exempted otherwise. Nonprofit organizations are not automatically exempt from paying sales or use tax on purchases. Nor are they exempt from collecting sales tax when they make a retail sale.

The construction of structures for the federal government, and the construction of public roads, paths, and transportation facilities for federal or local governments, are exempt from retail sales and use taxes. However, contractors performing this work are liable for sales and use tax on the materials used in the projects.

Some nonprofit organizations construct and maintain trails on recreational lands and are compensated in part by payments from landowners or agencies that manage the lands.

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**Summary of Substitute Bill:**

Amounts received by nonprofit organizations from government agencies or other nonprofit organizations for trail construction or maintenance are exempt from the B&O tax. Nonprofit organizations are not liable for retail sales or use tax on materials used in trail construction or maintenance. Nonprofit organizations are not required to collect retail sales tax for trail construction or maintenance.

Trail maintenance includes recruiting, training, and supervising volunteers as well as performing trail maintenance work.

**Substitute Bill Compared to Original Bill:**

Corrects the codification of the exemptions for materials used as components of trail maintenance.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** This activity is in the public interest. Private and nonprofit groups put a lot of time and effort into maintaining and constructing trails for very little remuneration. The tax

is an onerous burden, particularly when the ultimate benefit is really the public at large. There are plenty of other reasonable applications of the B&O tax to nonprofits.

We support this proposal. It is a relatively small deal in the big budget picture, but to nonprofit organizations like Washington Trails Association, it can make a big difference. The need for this bill arose because, in a routine state audit, the Department of Revenue said we owed tax on these contract amounts. This is a surprise to the trails community at large.

The demand for help issued by governmental agencies is increasing, but with the tax, it makes it more difficult to step up.

**Testimony Against:** None.

**Persons Testifying:** Elizabeth Lunney, and Jonathan Guzzo, Washington Trails Association.

**Persons Signed In To Testify But Not Testifying:** None.